

MEMORANDUM

DATE: April 27, 2007

TO: Ms. Carol Ellis, Director
Division of Long Term Care Residents Protection

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 10 DE Reg. 1613 [DMMA Final LTC Transfer of Assets Penalty Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA) final regulations regarding the Division's transfer of assets "look back" standards to conform to changes in federal law based on the Deficit Reduction Act (DRA). The final regulations were published as 10 DE Reg. 1613 in the April 1, 2007 issue of the Register of Regulations.

SCPD commented on the proposed version of these regulations in December 2006 and submitted two comments. In addition, the Delaware Health Care Facilities Association (DHCFA) and two attorneys submitted comments. SCPD believes the DHCFA comments are disturbing since it solicited a Medicaid State Plan amendment to "supersede" Delaware statutory law and any Division of Long Term Care Residents Protection (DLTCRP) standards which provide 30 days notice of discharge based on non-payment. The DHCFA wants nursing homes to be able to "promptly" discharge residents relying on Medicaid who are determined ineligible for LTC benefits due to the transfer of assets penalty. See attached excerpt from the Summary of Comments in the April 1, 2007 Register of Regulations. SCPD wanted to provide you with this background and information to ensure that the DLTCRP is aware of the potential for such an initiative.

Thank you for your consideration.

cc: The Honorable Margaret Rose Henry
The Honorable Pamela S. Maier
The Honorable Robert I. Marshall
Mr. Brian Posey
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

